

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

THE UNITED STATES OF AMERICA, )  
 ) Case No. 6:20-CR-06093  
 ) (FPG)  
Plaintiff, )  
 )  
vs. ) January 21st, 2020  
 ) 9:40 a.m.  
FRANK SALERNO, )  
 )  
Defendant. )

**TRANSCRIPT OF STATUS CONFERENCE  
BEFORE THE HONORABLE MARK J. PEDERSON  
UNITED STATES MAGISTRATE JUDGE**

APPEARANCES:

For the Plaintiff: JAMES P. KENNEDY, JR.  
UNITED STATES ATTORNEY  
BY: KYLE P. ROSSI, ESQ.  
ASSISTANT UNITED STATES ATTORNEY  
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Rochester, NY 14614

For the Defendant: FEDERAL PUBLIC DEFENDER  
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Proceedings recorded with electronic sound recording,  
transcript prepared with computer-aided transcription.

01:37PM 1 THE CLERK: At this time, the Court calls case number  
01:38PM 2 19-mj-728. United States vs. Frank Salerno.  
01:38PM 3 THE COURT: Good morning, counsel.  
01:38PM 4 MR. ROSSI: Good morning, Judge.  
01:38PM 5 THE COURT: Is the matter sealed?  
01:38PM 6 MR. ROSSI: No, Judge. It was unsealed in the  
01:38PM 7 District of Massachusetts where his initial appearance was  
01:38PM 8 conducted.  
01:38PM 9 THE COURT: Okay. And you are, sir, Mr. Frank  
01:38PM 10 Salerno?  
01:38PM 11 THE DEFENDANT: Yes, Your Honor.  
01:38PM 12 THE COURT: You're appearing here with your counsel?  
01:38PM 13 THE DEFENDANT: Yes.  
01:38PM 14 THE COURT: What's the status?  
01:38PM 15 MR. ROSSI: Your Honor, he was arrested in the  
01:38PM 16 District of the Massachusetts in December. Due to the  
01:38PM 17 holidays, I was advised by the marshals and that transport was  
01:39PM 18 somewhat delayed and he is here now. I just spoke with  
01:39PM 19 Mr. Ciccone and gave him a copy of the filed complaint. I'm  
01:39PM 20 going to provide him with voluntarily discovery. I'm leaving  
01:39PM 21 today for a training, but I'm going to do that as soon as this  
01:39PM 22 court appearance is done so that he can have it.  
01:39PM 23 And I can tell the Court that Mr. Salerno does have a  
01:39PM 24 warrant from the District of Massachusetts. He was being  
01:39PM 25 supervised on some type of supervised release for a state

01:39PM 1 charge and his officer there indicated that if he was released  
01:39PM 2 here, that they would certainly seek to extradite him to the  
01:39PM 3 District of Massachusetts. So, I've conveyed that information  
01:40PM 4 to Mr. Ciccone and I believe he might have a request based on  
01:40PM 5 that.

01:40PM 6 THE COURT: Is the interstate compact involved in  
01:40PM 7 this case?

01:40PM 8 MR. ROSSI: It is not, Judge.

01:40PM 9 MR. CICCONE: So, Judge, this is the first  
01:40PM 10 appearance. I think we still need to officially advise  
01:40PM 11 Mr. Salerno of his charges and rights.

01:40PM 12 THE COURT: Okay. That wasn't done in Massachusetts?

01:40PM 13 MR. CICCONE: I don't know. I obviously wasn't  
01:40PM 14 there.

01:40PM 15 MR. ROSSI: I was told that it was, Your Honor and  
01:40PM 16 that he waived his right to a preliminary hearing as well as a  
01:40PM 17 detention hearing at the time and then it was transferred here  
01:40PM 18 and he consented to the transfer to the Western District of  
01:40PM 19 New York. But if the Court wishes to -- I did not read the  
01:40PM 20 transcript. I was advised that by the AUSA, but if the Court  
01:40PM 21 wishes to review those rights again, I have no objection to  
01:40PM 22 that.

01:40PM 23 THE COURT: Okay. What would you like to do?

01:41PM 24 MR. CICCONE: Judge, I guess at this point, I wasn't  
01:41PM 25 aware that he had his initial appearance in Massachusetts, so

01:41PM 1 that's fine. My request at this point is going to be that a  
01:41PM 2 Coonan Order be issued allowing Mr. Salerno to stay in custody  
01:41PM 3 here so that we can try to work out some type of global  
01:41PM 4 resolution.

01:41PM 5 THE COURT: Okay. So, if I understand correctly, the  
01:41PM 6 charge in Massachusetts is with the state court?

01:41PM 7 MR. CICCONE: There's a parole charge or parole  
01:41PM 8 violation based upon the fact that he got arrested on these  
01:41PM 9 charges.

01:41PM 10 THE COURT: Oh, okay. Understood.

01:41PM 11 MR. ROSSI: That's correct, Judge.

01:42PM 12 THE COURT: Thank you. All right. So, Mr. Salerno,  
01:42PM 13 do you understand what's going on?

01:42PM 14 THE DEFENDANT: Yes, Your Honor.

01:42PM 15 THE COURT: Okay. So, we'll issue a Coonan Order  
01:42PM 16 based on the fact that he's going to be detained. If he's  
01:42PM 17 released from here by the State of Massachusetts, what would  
01:42PM 18 you like to do in addition to that?

01:42PM 19 MR. CICCONE: Judge, I'd ask if you could give us  
01:42PM 20 about 30 days or so, so that I can review whatever discovery  
01:42PM 21 is available at this point and discuss that with Mr. Salerno  
01:42PM 22 and find out how he'd like to proceed.

01:42PM 23 THE COURT: Okay. Is that fine with you?

01:42PM 24 MR. ROSSI: Yes, Your Honor.

01:42PM 25 THE COURT: All right, then. That would be -- the

01:42PM 1 24th is a little bit more than 30 days. It puts us over where  
01:42PM 2 the school break is. February 24th at 9:30. Does that work?  
01:43PM 3 MR. ROSSI: Yes, Judge. Thank you.  
01:43PM 4 MR. CICCONE: That should be fine. One second.  
01:43PM 5 THE DEFENDANT: Yeah. Go ahead and check.  
01:43PM 6 MR. CICCONE: Yeah. That's fine. Nine-thirty you  
01:43PM 7 said? Thanks.  
01:43PM 8 THE COURT: 3/24 at 9:30 for a status conference.  
01:43PM 9 Mr. Salerno will remain in custody then, having -- did he  
01:43PM 10 waive or just reserve on a detention hearing?  
01:43PM 11 MR. ROSSI: He's reserved his right, Judge, to have a  
01:43PM 12 detention hearing held in this district.  
01:43PM 13 THE COURT: And a preliminary hearing?  
01:43PM 14 MR. ROSSI: Yes, Your Honor.  
01:43PM 15 MR. CICCONE: Judge, I would ask if we could address  
01:43PM 16 those when we come back.  
01:43PM 17 THE COURT: Okay. Do you want me to set it down for  
01:43PM 18 one of those?  
01:43PM 19 MR. ROSSI: No, Judge. I'd ask if we could set it  
01:43PM 20 down for a status. Again, given that he's being held on the  
01:43PM 21 parole hold, having a detention hearing won't make a  
01:43PM 22 difference at this point.  
01:44PM 23 THE COURT: Right. Okay. So, see you back on the  
01:44PM 24 24th at the 9:30.  
01:44PM 25 MR. CICCONE: And Judge, I would ask to waive the

01:44PM 1 time between now and February 24th in the interest of justice.

01:44PM 2 MR. ROSSI: I join in that request, Judge.

01:44PM 3 THE COURT: I find that the ends of justice in

01:44PM 4 granting the adjournment to permit Mr. Ciccone to obtain

01:44PM 5 further discovery and possibly negotiate a resolution to this

01:44PM 6 and the parole violation in Massachusetts outweighs the best

01:44PM 7 interest of the public and the defendant in a Speedy Trial.

01:44PM 8 Therefore, I'm excluding the time from today until the 24th of

01:44PM 9 February pursuant to 18 U.S.C. 3161(h)(7)(A). See you back in

01:44PM 10 February.

01:44PM 11 MR. CICCONE: Thank you.

01:44PM 12 MR. ROSSI: Thank you, Judge.

01:44PM 13 (Proceedings concluded at 9:45 a.m.)

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I certify that the foregoing is a  
correct transcription of the proceedings  
recorded by me in this matter.

s/ Megan E. Pelka, RPR

Official Court Reporter